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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,587	01/15/2004	Boris Zabarski	060707-1180	4907
24504 7590 03/20/2008 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 600 GALLERIA PARKWAY, S.E. STE 1500 ATLANTA, GA 30339-5994				
EXAMINER				
DO, CHAT C				
ART UNIT		PAPER NUMBER		
2193				
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03/20/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/757,587

Applicant(s)

ZABARSKI ET AL.

Examiner

CHAT C. DO

Art Unit

2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-6, 13-24 and 32-38.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Chat C. Do/
Primary Examiner, Art Unit 2193

Continuation of 11, does NOT place the application in condition for allowance because: The applicant comments in page 20 last paragraph that the current amended claims would overcome 101 rejection and request the rejection under 35 U.S.C. 101 to be withdrawn. The examiner respectfully submits that the current amended claims do not sufficient to overcome the 101 rejection since they do not clearly or directly provide a practical/physical application of the algorithm to determine the minimum or maximum value.

The applicant argues in page 12 second paragraph for claim 1 that the rejection should be withdrawn since the Examiner admits that cited reference by Okumura fails to teach of the one element of the claim.

The examiner respectfully submits that the rejection along with response to argument of the previous Office action clearly address how the cited reference by Okumura discloses every limitations within the claim. Again, the placement of index within register is merely a design choice wherein Okumura discloses a capable of having the index in the upper bits of value.

The applicant argues in page 13 second paragraph for claim 1 that the cited reference by Okumura fails to disclose the limitation of "storing the first value in the destination register when the first value is less than or equal to the second value".

The examiner respectfully submits that the applicant has applied the incorrect path for this limitation since the correct path is to execute S9 when the register 5 is less than specific register 11. This path would clearly meet the argued feature above.

The applicant argues in pages 14-15 for claim 13 that the cited reference fails to disclose the limitation "wherein the destination register... plurality of source registers".

The examiner respectfully submits in further support the previous responses to argument of the last Office action that the cited reference by Okumura, particularly Figure 3, logically discloses the above claimed limitations since the claim does not specific any particular value for "an index value" and "a value of a first source", thus these two values are arbitraries. From Figure 3, the destination register is logical and capable to include any two arbitrary values as the index and first source values.

The applicant argues in pages 16-17 for claim 20 that the cited reference by Okumura fails to disclose the active status bit.

The examiner respectfully submits that the index field itself can be considered as the status bit since the actually existence of the index field is depending on whether the value is minimum or maximum.

The applicant argues in pages 17-18 for claim 32 similar to claim 13 above.

Thus, the similar response can be applied here wherein the cited reference by Okumura, particularly Figure 3, logically discloses the above claimed limitations since the claim does not specific any particular value for "an index value" and "a value of a first source", thus these two values are arbitraries. From Figure 3, the destination register is logical and capable to include any two arbitrary values as the index and first source values.

The applicant argues in pages 20-21 for claim 17 that the cited reference fails to disclose the limitation "store the second value in the first destination register of the processor and an index value in a second destination register of the processor when the second value is less than the first value, the index value representing the second source register".

The examiner respectfully submits that these limitations are clearly seen in Figures 1-3 wherein Figure 3 discloses a comparison of less than expression and Figure 2 clearly discloses the numeric data field and the index field. Basically, the result of comparison is saved/stored in the numeric data field called the first destination register of the processor and the index value of corresponding result is saved/stored in the index field called the second destination register of the processor. And further, the comparison is clearly done/performed in Figure 3 of the cited reference by Okumura.

The applicant similarly argues in pages 22-23 for claim 36 that the cited reference by Okumura et al. fails to disclose the limitation "store the second value in the first destination register of the processor and an index value in a second destination register of the processor when the second value is less than the first value, the index value representing the second source register".

The examiner respectfully submits that these limitations are clearly seen in Figures 1-3, in addition to the above responses, wherein Figure 3 discloses a comparison of less than expression and Figure 2 clearly discloses the numeric data field and the index field. Basically, the result of comparison is saved/stored in the numeric data field called the first destination register of the processor and the index value of corresponding result is saved/stored in the index field called the second destination register of the processor.